

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TYRONE WOODS,

Petitioner,

v.

Civil No. 00-10073

Honorable David M. Lawson

PAUL RENICO,

Respondent.

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**ORDER DENYING PETITIONER *IN FORMA PAUPERIS* STATUS ON  
APPEAL AND DENYING A CERTIFICATE OF APPEALABILITY**

This matter is before the Court on the petitioner's notice of appeal of this Court's denial of several motions. Because the motions and appeal are frivolous, the Court denies *in forma pauperis* status to the petitioner for appeal, and does not issue a certificate of appealability.

An appeal may be taken *in forma pauperis* if the appeal is taken in "good faith." 28 U.S.C. § 1915(a). "Good faith" requires a showing that the issues are arguable on the merits and are, therefore, not frivolous; it does not require a showing of probable success. *Harkins v. Roberts*, 935 F. Supp. 871, 873 (S.D. Miss. 1996) (quoting *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983)). "If the district court can discern the existence of any nonfrivolous issue on appeal, the movant's petition to appeal in formal pauperis must be granted." *Harkins*, 935 F. Supp. at 973.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997). To receive a certificate of appealability, "a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the

petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotes and citations omitted).

In 1995, the petitioner was convicted of killing three people and assaulting another in shootings that occurred at an after-hours club located in Detroit. The state appellate courts affirmed his convictions for first-degree murder, assault, and weapons offenses, and the petitioner thereafter filed his petition for writ of habeas corpus in this Court in 2000. On July 25, 2001, the Court denied the petition for writ of habeas corpus and entered judgment that same day. An order denying a certificate of appealability was entered on July 27, 2001. The petitioner filed a motion for reconsideration of the July 25, 2001 decision, which was denied on September 7, 2001. The petitioner appealed, and the United States Court of Appeals for the Sixth Circuit dismissed the appeal on March 25, 2002. The petitioner filed a petition for a writ of certiorari from the Supreme Court, but the Court denied certiorari on December 24, 2002.

On September 7, 2005, the petitioner filed another motion seeking to set aside the judgment that was entered against him by this Court. The Court denied the motion on November 8, 2005. The petitioner thereafter filed a motion for recusal, a motion for certificate of appealability, a motion for reconsideration, and two motions for supplemental pleadings. All of these motions were denied on December 7, 2005. The petitioner appealed these rulings to the Sixth Circuit and Supreme Court without success. The Supreme Court denied certiorari on January 16, 2007. The petitioner has now filed three additional motions: a renewed motion for recusal; a motion for independent action; and a motion for judicial notice. The motions were denied on August 10, 2007, because they lacked merit.

The Court concludes that the appeal is not taken in good faith because the claims are frivolous. Therefore, *in forma pauperis* status is denied. The Court further finds that reasonable jurists could not debate that this Court correctly denied each of the petitioner's motions, and therefore a certificate of appealability will not issue.

Accordingly, it is **ORDERED** that the petitioner be **DENIED** *in forma pauperis* status on appeal.

It is further **ORDERED** that a certificate of appealability be **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: October 3, 2007

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 3, 2007.

s/Felicia M. Moses  
FELICIA M. MOSES